

OGC 72-0498

6 April 1972

The Honorable Walker B. Comegys
Acting Assistant Attorney General
Antitrust Division
Department of Justice
Washington, D. C. 20530

Dear Mr. Comegys:

Re: U. S. v. International Business Machines
Corporation (69 Civ. 200 S.D. N.Y.)

STATINTL

This is to confirm the results of a meeting held on 29 March 1972 between your Mr. Burton Thorman and [redacted] of my office. At that time, it was noted that compliance by this Agency with Pretrial Order No. 3 would infringe on specific exemptions granted to it by law.

The Order would require all offices of this Agency "except Headquarters, Washington, D. C., and McLean, Virginia" to produce documents showing a detailed breakdown of filing systems and filing procedures used by each such office for documents related in any way to electronic data processing, together with documents which would show all personnel who are in charge of the organization, management, and/or maintenance of any files containing documents related to electronic data processing.

As indicated by [redacted] observance of Pretrial Order No. 3 would pose special problems for this Agency because of its statutory exemption against disclosure of information regarding its organization and the identities of its personnel. In that connection reference was made to section 6 of the Central Intelligence Agency Act of 1949, as amended, 50 U.S.C. § 403g which provides:

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In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of section 654 of Title 5, and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency:

On the basis of this provision of law, together with representations as regards the sensitivity of information concerning this Agency's covert field offices, domestic and foreign, it was agreed that no action should be taken with respect to Pretrial Order No. 3, and also that the exception noted above would be construed to include those Headquarters offices located elsewhere than in Washington, D. C. and McLean, Virginia.

This evidence of the Department's willingness to cooperate in protecting matters affecting the foreign intelligence activities of the United States is greatly appreciated.

Sincerely,

Lawrence R. Houston
General Counsel

cc: O/PPB (C/IPS)